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## PIONEERS IN CRIMINOLOGY

### I—Gabriel Tarde (1843–1904)

MARGARET S. WILSON

The author is Assistant Professor in the Department of Economics and Sociology at Mount Holyoke College. She has taught previously at the Universities of Pennsylvania and Maine. Her interest in sociological theory is longstanding and she has taught theory for the last four years at Mount Holyoke. At Pennsylvania she began research on Gabriel Tarde in a criminal and penal philosophy seminar under Dr. Thorsten Sellin. Her interest in Tarde has continued, and she is delighted for the opportunity to participate in this series of articles on Classical Criminologists.—EDITOR

The picture below is from *Archives d'Anthropologie Criminelle*, Volume 19 (1904).

Gabriel Tarde is an example of men who attain intellectual eminence without leading wholly the scholar's life. For fifteen years he was a provincial magistrate in the small village of Sarlat, his birthplace and home. In this apparently restricted sphere, he obtained a fund of human experience from which to develop his philosophical theories. Later he was called to Paris to direct the Bureau of Statistics in the Department of Justice, and this adventure provided him with a wealth of criminal statistics to buttress his ideas on criminology. He is distinguished as a philosopher, psychologist and sociologist as well as a criminologist of international repute. This paper is concerned with his lasting contributions to criminal and penal philosophy. His emphasis on the social origins of crime is a cornerstone of present American criminological theories. His devastating attack on the Lombrosian theory undermined the influence of that School in Europe. In the field of penology, Tarde furnished us with a theory of moral responsibility which is original and capable of practical demonstration. His logical applications of this theory have been realized in recent innovations of the criminal court system.

The body of Tarde's criminological theories are found in two of his books: *La Criminalite comparee* (1886) and *La Philosophie penale* (1890). The former is a forceful expression of the view that social factors should be emphasized in studying the



GABRIEL TARDE

criminal instead of the physical and other characteristics of the offender. The latter book developed these views further and became available to the English-speaking public when it was translated by the American Institute of Criminal Law and Criminology in 1912. It thus became one of several important volumes in the Modern Criminal Science Series. In 1891 Tarde published *Etudes penales et sociales*, another book dealing specifically with crime. This was a collection of previously published articles and included an analysis of criminal statistics, explanations of a number of sensational murders of the period, and criticism of the current works on crime. During his lifetime he contributed numerous articles to the *Archives d'Anthropologie criminelle*, *Revue philosophique* and other journals. Also, he directed the publication of twelve volumes of criminal statistics when he was in the Department of Justice.

#### CAUSES OF CRIME

Tarde examined the prevailing theories of crime causation and rejected the biological and physical ones as inadequate. After a thorough consideration of all the aspects, he arrived at his own theory, a happy marriage of psychology and sociology. Crime, he concluded, has predominantly social origins. To express it in Tarde's own words:

The majority of murderers and notorious thieves began as children who have been abandoned, and the true seminary of crime must be sought for upon each public square or each crossroad of our towns, whether they be small or large, in those flocks of pillaging street urchins, who, like bands of sparrows, associate together, at first for marauding, and then for theft, because of a lack of education and food in their homes.<sup>1</sup>

Tarde conceded that biological and physical factors might play a part in creating a criminal, but by his analysis of crime in parts of Europe and by citations from other specialists, he showed that the influence of the social environment was most significant in molding criminal behavior. It is a short step from this to the prevailing mode of opinion today among American sociologists. Sutherland's theory of differential association<sup>2</sup>, for example, is reminiscent of Tarde.

The importance of the social environment in producing criminals was emphasized by Tarde. Yet he is far from being a sociological determinist. In a vivid passage, he showed the importance of individual choice in a criminal career:

One could, without any great difficulty, write a treatise upon the art of becoming an assassin. Keep bad company; allow pride, vanity, envy and hatred to grow in you out of all proportions; close your heart to tender feelings, and open it only to keen sensations; suffer also,—harden yourself from childhood to blows, to intemperateness, to physical torments, grow hardened to evil, and insensible, and you will not be long in becoming devoid of pity; become irascible and vengeful, and you will be lucky if you do not kill anyone during the course of your life.<sup>3</sup>

Tarde recognized that both the element of individual choice and the factor of chance operate in a criminal career. It is difficult to ascertain which of these he considered

<sup>1</sup> GABRIEL TARDE, *PENAL PHILOSOPHY*, Translated by R. Howell. Boston: Little, Brown and Company, 1912, p. 252.

<sup>2</sup> E. H. SUTHERLAND, *PRINCIPLES OF CRIMINOLOGY*. Philadelphia: J. B. Lippincott, 1939, p. 5.

<sup>3</sup> TARDE, *op. cit.*, p. 256.

the more important. While he insisted that choice operates in every career and that the moral responsibility for each person's acts rests upon that basis, he realized that the slums, the underworld and even the prisons themselves condition the criminal to a life of crime. Such American works as Frederick Thrasher, *The Gang* (1927); Clifford Shaw, *Brothers in Crime* (1938), *The Jack-Roller* (1930) and *The Natural History of a Delinquent Career* (1931); and Clifford Shaw and Henry McKay, *Juvenile Delinquency in Urban Areas* (1942), are proof that Tarde's criminal theories are sound.

Tarde's conception of the criminal as a professional type is of particular interest.<sup>4</sup> He saw murderers, pickpockets, swindlers and thieves as individuals who had gone through a long period of apprenticeship, just as doctors, lawyers, farmers or skilled workmen. It was that the accident of birth placed them in an atmosphere of crime. Without any natural predisposition on their part, their fate was often decided by the influence of their comrades. The idea of a professional criminal who is skilled in special techniques, has a special language known only to his associates and a code of ethics in his relations with other criminals was further developed by E. H. Sutherland in his book, *The Professional Thief* (1937).

It is a tribute to Tarde's originality and foresight that seventy years ago he expounded the ideas on crime causation that are the working hypotheses of American criminologists today. They are accumulating empirical studies to substantiate the pervading influence of the social environment, especially that of close friendships, and examining crime as a profession. Their methods are more exact; yet none have stated these ideas so vividly and succinctly.

#### LAWS OF IMITATION

The laws of imitation which apply in crime as well as in all other aspects of social life are basic to Tarde's theories. In his studies of criminal behavior, Tarde noted three types of repetitive patterns. This led him to formulate three laws of imitation.

The first and most obvious law is that men imitate one another in proportion as they are in close contact. In crowds or cities where contact is close and life is active and exciting, imitation is most frequent and changes often. Tarde defined this phenomenon as fashion. In stable groups, family and country, where contact is less close and activity is less, there is less imitation and it seldom changes. Tarde defined this phenomenon as custom. To a greater and less degree, the two forms of imitation, fashion and custom, operate in every society and in certain irregular rhythms. Fashion spreads a certain action, which eventually becomes rooted as a custom; but custom is subsequently uprooted by a new fashion which in its turn becomes a custom.

The second law concerns the direction in which imitations are spread. Usually the superior is imitated by the inferior. From the annals of crimes, Tarde traced such crimes as vagabondage, drunkenness, death by poisoning and murder. These crimes originally were the prerogative only of royalty, but by Tarde's lifetime, the latter part of the nineteenth century, they occurred in all social levels. After the

<sup>4</sup>This idea was elaborated in his book, *LA CRIMINALITE COMPAREE* (1886), and in his paper, *La Criminalite professionnelle*, given at the Congress of Criminal Anthropology at Geneva in 1896.

royalty disappeared, capital cities became the innovators of crimes. Indecent assault on children was first found only in the great cities, but later occurred in surrounding areas. Such fashions as cutting corpses into pieces began in Paris in 1876 and vitriol-throwing (a woman disfiguring her lover's face) first occurred in that city in 1875. Both of these fashions soon spread to other parts of France.

The last law of imitation Tarde called the law of insertion. When two mutually exclusive fashions come together, one can be substituted for the other. When this happens, there is a decline in the older method and an increase in the newer method. An example of this would be murder by knifing and murder by the gun. Tarde found that the former method had decreased while the latter had increased. He noted exceptions in special cases. If the new fashion increased a demand for the activity, there might be an increase in both. As example, Tarde cited work and stealing. The purpose of both is to acquire money so that, if one works, one would not steal and if one steals, one would not work. This was not borne out in the case of industrial work for an increase in industrial development creates a need for more money; so thefts, in that instance, increase instead of diminish. The madness for luxury outstrips the salaries and wages of the people. The progress of industrialism gives rise to an increasing number of offenses because of the mercantile sentiment, the worship of gold and its immediate enjoyment to the exclusion of everything else. Tarde is implying that the increasing material levels of living which accompany industrialism stimulate crimes, rather than reduce them.

Tarde's explanation of crime was simply the application of the general laws governing social relations, as he conceived them,<sup>5</sup> to the phenomena of crime. All science, in his view, rested upon the recognition of certain similarities in the world of phenomena or of repetitions of movement or being. Periodic movement is the form of repetition in the physical world, and heredity is that shown by life in the world. Correlative and equivalent to these is imitation in the world of social relations. Crime, like any other social phenomenon, starts as a fashion and becomes a custom. Its intensity varies directly in proportion to the contacts of persons. Its spread is in the direction of the superior to the inferior. Every imitation or imitative ray, in the language of Tarde, tends to spread and enlarge itself indefinitely, whence arise interferences between these rays of imitation, thus producing contradictions or oppositions. When two mutually exclusive fashions come together, one tends to be substituted for the other. When two fashions which are not mutually exclusive come together, the distinct rays of imitation combine or complement each other and so by adaptation organize themselves into a larger scheme.

#### CLASSIFICATION OF CRIMINALS

Tarde applied his theories in a logical fashion to the classification of criminals, a subject in which he and the other Classical criminologists were interested. As he conceived of crime resulting from social environment and of the criminal as a professional type, he was dissatisfied with previous classifications. He suggested his own on a psychological basis, but he never developed this idea in concrete form. His analysis of rural and urban crime could, if carried one step further, serve as a basis for the

<sup>5</sup> TARDE, *op. cit.*, Editorial Preface by EDWARD LINDSEY, p. xxii.

classification of criminals. Rural and urban criminal statistics of the various departments of France were used for specified periods. He displayed remarkable acumen for his times in recognizing the short-comings of his figures. He acknowledged that convictions were an inadequate measure of the extent of crime and proposed "crimes known to have been committed" as a better index. After the necessary reservations for the inadequacies of the statistics, he found that in urban crime there had been "a slow substitution of greedy, crafty and voluptuous violence for the vindictive and brutal violence found in the country."<sup>6</sup> City crime was more often acts of burglary, fraud, and swindling while the country crime was violent and brutal murder or assault. This distinction is similar to the statistical classification of crimes so widely accepted today: crimes against the person and crimes against property. It suggests to the writer that Tarde had the basis of a classification of criminals: rural and urban, which is social and psychological, and might possibly prove a valuable classification if some enterprising criminologist was willing to experiment along these lines.

#### CRITICISM OF LOMBROSO

Tarde's attack on Lombroso and, in fact, on the entire Positivist School, is one of the most significant and convincing.<sup>7</sup> By means of numerous statistical studies, mostly compiled by criminal anthropologists themselves, Tarde showed in his *La Criminalité comparée* (1886) that there was no support for the theory of the born criminal. He cited particularly the study of 4,000 offenders by Marro. Marro had found that atavisms and physical anomalies such as size of frontal cavity of brain, receding forehead, and oblique eyes, were as common among non-criminals as among criminals. A comparison of Marro's results with studies of other European criminal anthropologists (Bordier, Heger, Dallemagne, Ferri, Benedikt, Thompson, Virgilio and Lacassagne) led Tarde to conclude that there was no agreement on what stigmata to use to identify the criminal. By the time he had exhausted the list of physical anomalies and showed the inconsistency between anthropologists or the lack of difference between criminals and non-criminals, Tarde had shattered the criminal-type theory.

Tarde gave his attention to Lombroso's elaboration of his theory of the born criminal. First Lombroso considered the born criminal as atavistic; a "throw-back" who was really a savage. Later he conceived of the born criminal as a madman. Finally he considered him an epileptic. Tarde destroyed these ideas, one by one, with contradicting evidence. The criminal could not be a savage for anthropological evidence showed that some savages were law-abiding and moral. The slang of criminals was not at all like primitive language. Even tattooing was not found in some tribes so it could not be considered a primitive characteristic. The criminal could not be a madman for he is logical and the madman is not. The criminal could not be an epileptic for fewer than five percent of prisoners were reported to be epileptic. Tarde did agree with Lombroso that the prisoner's mind was like that of an epileptic for both indulged exaggerated thoughts and actions. Tarde recognized,

<sup>6</sup> *Ibid.*, p. 359.

<sup>7</sup> *Ibid.*, Editorial Preface by EDWARD LINDSEY, p. xxi.

however, that exaggerated thoughts and actions are characteristic of the normal personality as well as the criminal. This manifestation could be marshalled in the direction of good as well as of evil.

Tarde's criticism of the Lombrosian criminal type undermined the popularity of Lombroso on the Continent, particularly in France. However the reputation of the latter was undamaged in England and the United States until the famed Goring study,<sup>8</sup> which showed conclusively by an exhaustive statistical study of English criminals with non-criminals that there was no proof of a born criminal type. It is unfortunate that Tarde's works did not become available in English until 1912, approximately the same time that the Goring work appeared. Since Tarde's influence in this country and England was hampered by the language barrier and the lack of communication between French and English-speaking criminologists, he has never received the credit due him in this connection.

#### THEORY OF MORAL RESPONSIBILITY

The crux of penal philosophy, according to Tarde, is the problem of moral responsibility.<sup>9</sup> Again one finds the blend of psychology and sociology so characteristic of Tarde. He considered two factors essential to determine the responsibility of the criminal. The first, individual identity, is the concept of the self, and memory is the most important aspect of the self in relation to responsibility. Each person has some memory of his moral training and social obligations. This makes each person responsible for his acts. But, if memory is impaired, a person is not responsible for his crime. A person during an epileptic fit, hypnotized, suffering from a loss of memory or from a severe mental illness would not be held responsible for his acts because his memory is distorted. The other factor, social similarity means familiarity with the society in which one lives, and is essential for responsibility. Thus, an Eskimo unfamiliar with French life who commits a crime soon after his arrival in Paris would not be held responsible for it. Social similarity implies that the person has been brought up in the society, experienced common education, prevailing customs and been conditioned to have the interests and desires of that group. The society has recast that individual in its own image. It further implies that this society has unanimous judgments of blame or of approbation and that the group conforms. Tarde emphasized the fact that he considered social similarity the less important of the two factors in determination of moral responsibility. He thought of personal identity as a permanent and all important determinant and of social similarity as an accessory which in the future would be less important as civilization progressed and communications improved until finally among superior civilized beings, it would end by not being demanded at all. In that sense his theory is mainly a psychological standard. He did not exclude other factors, biological and physical, which might influence individuals, but he contended that these are only partially important and did not prevent an offender from being held responsible for his crime.

Tarde's point of view is refreshing as it avoids the dilemma of the philosopher's concept of free will opposing the scientist's viewpoint of determinism. His factors of

<sup>8</sup> CHARLES GORING, *THE ENGLISH CONVICT*. His Majesty's Stationer's Office, London, 1913.

<sup>9</sup> *Ibid.*, Introduction to the English Version by ROBERT H. GAULT, p. ix.

personal identity and social similarity are more logical and discernible than free will; but, as Robert H. Gault so aptly pointed out<sup>10</sup>, the determination of moral responsibility from these factors presents problems of limit that are not easy to solve. How successful these criteria would be in a criminal court is a hypothetical question at the present time, but Tarde should be commended for an original and more concrete theory which circumvents the usual divergent views of the philosopher and the scientist.

#### REFORMS IN CRIMINAL PROCEDURE

Tarde carried his theory to a logical conclusion when he proposed that the court's function should be confined merely to the decision on guilt or innocence of the accused. He suggested that a committee of experts (doctors and psychologists) should be set up in courts to determine the responsibility of the accused. Once that is decided, the punishments should be resolved on a psychological basis. Tarde maintained that a punishment for a specific crime should not be the same for all offenders since such uniformity would not represent an equivalent deprivation for each criminal. He argued that it was unfair to give the same punishment to a country thief as to a city one. The city thief would feel much more deprived by the punishment than the country thief since he would be deprived of many more satisfying activities. An attempt should be made to balance deprivations. For example, rural criminals should be given more physical punishments since they commit more crimes of violence.

Tarde criticized other aspects of criminal procedure. The jury he distrusted as he was convinced that its members lacked ability and training to make intelligent and correct decisions. He deplored the fact that judges acted as both civil and criminal magistrates and suggested that the two forms be clearly distinguished so that judges could serve in only one field. He saw the necessity for a special school for criminal magistrates to insure better administration of criminal law. Because he believed strongly in the efficiency of punishment to deter crime, he recommended that the death penalty be extended as a measure to reduce crime.

Tarde examined the prevailing prison systems and in his own recommendations he was consistent with his ideas on crime causation. The cell system he deemed useful as it kept prisoners from contaminating each other or exchanging their criminal techniques. However, he thought it should be combined with a stream of kindly disposed visitors whose good influence would be brought to bear on the criminal. He greeted with favor the introduction of "conditioned liberty," an intermediary step from the cell to absolute liberty which was first used in France around 1830. This allowed to prisoners who had a record of good behavior in prison an earlier release with limited freedom at first. This practice sounds like the beginnings of a modern parole system.

Throughout his work, he treated crime as a social phenomena but at the same time an anti-social one. He likened it to cancer which participates in the life of an organ but brings its death. Crime, to Tarde, was an industry, but a negative one and every effort should be taken by society to combat it.

<sup>10</sup> *Ibid.*, pp. ix-xviii.

## EVALUATION

Tarde's recognition of the importance of social factors in the causation of crime and his conception of the professional criminal are his two most important contributions to criminological theory. His logical mind and his application of statistics prevented him from taking the dogmatic stand of a social determinist. Other parts of his theory are in disrepute today. His laws of imitation have been largely discredited because they represent an oversimplification of social causation. Modern theorists recognize imitation as a factor in crime as in all social life, but rank it a factor of less importance. Perhaps the reason for the present neglect of Tarde's laws of imitation lies in his serious omissions. Michael Davis who has made the most comprehensive and critical analysis of Tarde's theories to date listed the following research which Tarde had overlooked:<sup>11</sup>

1. The contributions of Baldwin and other genetic psychologists had much to offer Tarde. Their studies concerning the innate (biological) tendencies and physical conditions interplaying inextricably with stimuli from the social surroundings to produce adaptive reactions would have enabled Tarde to give a more satisfactory analysis of the mental processes making up imitation and might have given him the opportunity to approach sociology from the standpoint of the individual as well as from that of the group.

2. The work of Emile Durkheim who stressed the factor of "social constraint," demonstrated that society is in a real sense a psychological unity. Traditions, ideals, and standards which are commonly accepted by the group do mold the members of the group to conformity; yet Tarde failed to grasp this important point. The two men, contemporaries, were pet antagonists for years and possibly their differences in views and personalities made it impossible for Tarde to appreciate Durkheim's contribution.

3. Tarde did not pay sufficient attention to the work of the biological school of sociology. He did not, therefore, take advantage of the laws of heredity and the work of Quetelet, Galton and Karl Pearson.

4. The working principle of selection in society is a topic to which Tarde paid little attention. Every environment not only influences those who are within it, but draws selectively a certain type of man or mind to be within it. If he had considered the work of Lapouge, Hansen or Weber, he might have pushed further his law of imitation from the "superior" to the "inferior" to a specifically applicable principle, illuminated by the concrete motor forces which are its social basis.

5. Tarde considered race a biological factor so he did not allow it to affect his theory. Yet he might have profited by considering the factors of racial and cultural groups, which are significant forces in society.

6. His neglect to analyze the influence of special human motives, particularly the economic, leaves large gaps in his work.

These six omissions explain the inadequacy and one-sidedness of his laws of imitation whether applied to crime or to any other aspect of society.

<sup>11</sup> MICHAEL DAVIS, *PSYCHOLOGICAL INTERPRETATIONS OF SOCIETY*. New York: Columbia University Studies in History, Economics and Public Law, Vol. XXXIII, No. 2, 1909, pp. 132-137.

Tarde's penal philosophy, like that of Lombroso, Ferri and Garofalo, furthered the idea of the criminal as an individual. His penetrating analysis of moral responsibility and his suggested changes in court procedure and the treatment of criminals have much to offer today's penal theorists. Such inroads in court and prison methods as the juvenile courts, testimony of psychiatrists and other experts at trials, Youth Authority Act, the lessened use of the jury trial and the classification and differential treatment of prisoners are concrete evidence of the application of Tardeian philosophy. One may not agree with Tarde's views concerning the extension of the death penalty, or even his suspicion of the jury system, but his discussions of these topics are still stimulating and suggestive three-fourths of a century later and should not be ignored. His vivid language and his frequent resort to analogies make it a delight to read his works and a welcome change from the ponderous and abstruse tomes of many theorists. Artist by temperament, at least as much as scientist, he puzzles and perturbs those who approach his work with the intellect alone. It is well to remember that he was blessed with a literary touch and a Frenchman's sense for the piquant. And what is more significant, he was an independent thinker as well as an original one who left an indelible mark on criminology and penology.

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